

Case Nos. 2015-1728, -1729, -1730

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**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

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CHICAGO BOARD OPTIONS EXCHANGE, INC.,

Appellant

v.

INTERNATIONAL SECURITIES EXCHANGE, LLC,

Appellee

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*Appeals from the United States Patent and Trademark Office, Patent Trial and Appeal Board, Case Nos. CBM2013-00049, CBM2013-00050, CBM2013-00051*

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**JOINT MOTION FOR FIRST EXTENSION TO THE BRIEFING  
SCHEDULE**

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Pursuant to Federal Circuit Rule 26(b), Appellant Chicago Board Options Exchange, Incorporated (“CBOE”) and Appellee International Securities Exchange, LLC jointly move for an extension of 35 days for Appellant to file its principal brief, no extension for Appellee to file its responsive brief, and an extension of 7 days (including 3 days added) for Appellant to file its reply brief. If this motion is granted, the briefs will be due according to the following schedule:

<u>Brief</u>	<u>Current Deadline</u>	<u>Requested Extension</u>	<u>Proposed Deadline</u>
Appellant's Principal Brief	August 14, 2015	35-day extension	September 18, 2015
Appellee's Responsive Brief	September 28, 2015	No extension	November 2, 2015
Appellant's Reply Brief	October 16, 2015	7-day extension (including 3 days added)	November 25, 2015

1. This is the first extension of time requested; there are no other requests pending.
2. There is good cause to extend the parties' time to file their briefs. The parties' attorneys need additional time for preparing and filing the briefs in this case because of busy case schedules, planned travel, and religious holidays.<sup>1</sup>

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<sup>1</sup> The parties have simultaneously requested that the briefing in the consolidated, companion cases 2015-1743 and 2015-1744 (which have been assigned to the

3. The parties' counsel have corresponded and have agreed to this mutual extension of the briefing deadlines.

For the foregoing reason, the parties respectfully request that this Court grant its motion.

Dated: June 29, 2015

/s/ Steven Lieberman  
Steven Lieberman  
ROTHWELL, FIGG, ERNST &  
MANBECK, P.C.  
607 14<sup>th</sup> Street, N.W., Suite 800  
Washington, DC 20005  
Phone: 202-783-6040

*Counsel for Appellant*  
*Chicago Board Options Exchange, Inc.*

Respectfully submitted,

/s/ Michael Murray  
Michael Murray  
WINSTON & STRAWN LLP  
200 Park Avenue  
New York, NY 10166-4193  
Phone: 212-294-3510

*Counsel for Appellee*  
*International Securities Exchange*

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same panel as these three cases) be adjusted to follow the same briefing schedule.  
(Dkt. No. 2).

**CERTIFICATE OF INTEREST**

I, Steven Lieberman, counsel for Appellee Chicago Board Options Exchange, Inc., certify the following:

1. The full name of the party represented by me is Chicago Board Options Exchange, Incorporated.
2. Chicago Board Options Exchange, Incorporated is the real party in interest.
3. All parent corporations and publicly held companies that own 10 percent or more of the stock of this party are: Chicago Board Options Exchange, Incorporated is a wholly owned subsidiary of Chicago Board Options Holdings, Inc., a publicly held corporation.
4. The law firms and the partners and associates that appeared for this party in the *Inter Partes* Review cases at the U.S. Patent and Trademark Office, Patent Trial and Appeal Board, or are expected to appear in this Court are:

ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
Steven M. Lieberman  
Joseph A. Hynds  
Jason M. Shapiro  
Brian A. Tollefson  
607 14th Street, N.W., Suite 800  
Washington, DC 20005  
Telephone: 202-783-6040

Dated: June 29, 2015

/s/ Steven Lieberman  
Steven Lieberman

**Form 9**

**FORM 9. Certificate of Interest**

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Chicago Board Options Exchange, Incorporated v. International Securities Exchange, LLC

No. 2015-1728, -1729, -1730

**CERTIFICATE OF INTEREST**

Counsel for the (petitioner) (appellant) (respondent) (appellee) (amicus) (name of party) International Securities Exchange, LLC certifies the following (use "None" if applicable; use extra sheets if necessary):

1. The full name of every party or amicus represented by me is:

International Securities Exchange, LLC

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2. The name of the real party in interest (if the party named in the caption is not the real party in interest) represented by me is:

N/A

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3. All parent corporations and any publicly held companies that own 10 percent or more of the stock of the party or amicus curiae represented by me are:

Parent Companies: International Securities Exchange Holdings, Inc.; U.S. Exchange Holdings Inc.; Eurex Frankfurt AG; Deutsche Borse AG. No publicly owned company directly owns more than 10% of ISE's stock. Deutsche Borse AG is a publicly owned German company on the Frankfurt Stock Exchange.

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4.  The names of all law firms and the partners or associates that appeared for the party or amicus now represented by me in the trial court or agency or are expected to appear in this court are:

Winston & Strawn LLP: Michael M. Murray, Michael J. Scheer, Geoffrey P. Eaton, Bryan N. DeMatteo

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6/29/2015

Date

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/s/ Michael M. Murray

Signature of counsel

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Michael M. Murray

Printed name of counsel

Please Note: All questions must be answered

cc: \_\_\_\_\_

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**DECLARATION OF STEVEN LIEBERMAN IN SUPPORT OF THE JOINT  
MOTION FOR FIRST EXTENSION TO THE BRIEFING SCHEDULE**

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I, Steven Lieberman, hereby declare:

1. I am a member of the firm Rothwell, Figg, Ernst & Manbeck, PC, counsel for Chicago Board Options Exchange, Inc. ("CBOE"). I have personal knowledge of the matters set forth herein.
2. I submit this declaration, pursuant to Federal Circuit Rule 26(b)(5), in support of the parties' Joint Motion for First Extension to the Briefing Schedule. This is the first extension of time requested; there are no other requests pending.
3. The extension is made necessary in part due to busy case schedules, planned travel, and upcoming holidays of Appellant's counsel who will be responsible for drafting and filing Appellant's briefs.

Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 29, 2015

By: /s/ Steven Lieberman

Steven Lieberman

**UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

Nos. 2015-1728, -1729, -1730

CHICAGO BOARD OPTIONS EXCHANGE, INC.,

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Appellee

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Appeals from the United States Patent and Trademark Office,  
Patent Trial and Appeal Board

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**DECLARATION OF MICHAEL M. MURRAY**

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I, Michael M. Murray, hereby declare:

1. I am a partner of the firm Winston & Strawn LLP, counsel for Appellee International Securities Exchange, LLC (“ISE”). I have personal knowledge of the matters set forth herein.
2. I submit this declaration, pursuant to Federal Circuit Rule 26(b)(5), in support of the parties’ Joint Motion for First Extension to the Briefing Schedule. This is the first extension of time requested; there are no other requests pending.

3. The extension is made necessary in part due to busy case schedules and planned travel of Appellee's counsel who will be responsible for drafting and filing Appellee's briefs.

Pursuant to 29 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 29, 2015

By: */s/ Michael M. Murray*

Michael M. Murray

**CERTIFICATE OF SERVICE**

I hereby certify that on this 29<sup>th</sup> day of June, 2015, the foregoing **JOINT MOTION FOR FIRST EXTENSION TO THE BRIEFING SCHEDULE** with **DECLARATION OF STEVEN LIEBERMAN IN SUPPORT OF THE JOINT MOTION FOR FIRST EXTENSION TO THE BRIEFING SCHEDULE** were filed electronically with the U.S. Court of Appeals for the Federal Circuit by means of the Court's CM/ECF system. I further certify that the foregoing was served by means of electronic mail, as well as by the Court's CM/ECF system, which should have sent a Notice of Docket Activity, upon the following counsel of record for Appellees:

*/s/ Erik van Leeuwen*  
Erik van Leeuwen  
Rothwell, Figg, Ernst & Manbeck, P.C.